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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,
-against-

MEMORANDUM AND ORDER
Case No. 09-CV-2888 (FB) (SMG)

PEREGRINA CHEESE, INC., a corporation;
JAVIER PEREGRINA, an individual; ISABEL
PEREGRINA, an individual,

Defendants.
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Appearances:

For the Plaintiff:

LORETTA E. LYNCH, ESQ.

United States Attorney

Eastern District of New York

By: SETH D. EICHENHOLTZ, ESQ.

Assistant United States Attorney

271 Cadman Plaza East

Brooklyn, New York 11201

BLOCK, Senior District Judge:

On November 9, 2010, Magistrate Judge Gold issued a Report and Recommendation ("R&R") recommending, for reasons stated on the record of proceedings held in court on the same date, that the Court grant the relief sought in plaintiff's order to show cause to enforce the Consent Decree of Permanent Injunction so-ordered by the Court on July 20, 2009 ("Decree"). Docket Entry for Nov. 9, 2010 (R&R). Specifically, plaintiff asked the Court to (1) order defendants to cease production in accordance with Paragraphs V and XIII of the Decree until the requirements of Paragraph V were met to the satisfaction of the Food and Drug Administration ("FDA"), and (2) enter judgment against defendants,

jointly and severally, in the amount of \$78,000 in liquidated damages pursuant to Paragraph XV of the Decree. Docket Entry for July 13, 2010 (Unsigned Order to Show Cause). The R&R also stated that failure to object on or before November 26, 2010 would preclude appellate review. Docket Entry for Nov. 9, 2010 (R&R). Defendants' attorney sent a copy of the R&R to defendants last known address by overnight delivery on November 9, 2010, and no objections have been filed.

If clear notice has been given of the consequences of failure to object, and there are no objections, the Court may adopt the R&R without *de novo* review. See *Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) ("Where parties receive clear notice of the consequences, failure timely to object to a magistrate's report and recommendation operates as a waiver of further judicial review of the magistrate's decision."). The Court will excuse the failure to object and conduct *de novo* review if it appears that the magistrate judge may have committed plain error, see *Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000); no such error appears here. Accordingly, the Court adopts the R&R without *de novo* review and directs the Clerk to enter judgment in accordance with the R&R.

SO ORDERED.

s/ Judge Frederic Block

FREDERIC BLOCK /
Senior United States District Judge

Brooklyn, NY
December 14, 2010